



DEQ-WCRO

SEP 13 2007

COMMONWEALTH of VIRGINIA **RECEIVED**

DEPARTMENT OF ENVIRONMENTAL QUALITY

L. Preston Bryant, Jr
Secretary of Natural Resources

West Central Regional Office
3019 Peters Creek Road, Roanoke, Virginia 24019
Telephone (540) 562-6700, Fax (540) 562-6725
www.deq.virginia.gov

David K. Paylor
Director

Steven A. Dietrich
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER BY CONSENT ISSUED TO Intermet – New River Foundry Registration No. 21256

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Intermet. – New River Foundry for the purpose of resolving alleged violations of the State Operating Permit dated December 8, 2005.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order.
6. “Intermet” means “Intermet - New River Foundry” the corporation certified to do business in Virginia.
7. “Facility” means the “Intermet - New River Foundry”, located in Radford, Virginia.

8. “WCRO” means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. “Permit” means the “State Operating Air Permit” which became effective December 8, 2005.
10. “O&M” means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. Intermet received a State Operating Air Permit which became effective December 8, 2005. Condition 30 in the State Operating Permit requires Intermet to conduct an initial performance test for PM-10 on dust collectors DC-1, DC-2, DC-3, DC-4 and DC-14 stacks, to demonstrate compliance with emission limits contained within Condition 21 of that same permit. This performance test was required to be performed within 60 days after achieving the maximum production rate, but ***no later than April 23, 2007.*** Condition 31 of the December 8, 2005 State Operating Permit also requires that Visible Emission Evaluations (VEE) be conducted concurrently with the initial performance tests for these same stacks.
2. On August 10, 2007, WCRO staff discovered that these tests were not conducted by the required date and informed Intermet representatives of the permit compliance deficiencies.
3. On August 18, 2007, Intermet was issued a Notice of Violation for these permit deficiencies.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1307.D, 10.1-1184 and §10.1-1316.C, orders Intermet, and Intermet agrees, to pay the civil charge listed in 1 below.

1. Pay a civil charge of \$4,122.⁰⁰ within 30 days after execution of this order by DEQ. Payment shall be made by check payable to the “Treasurer of Virginia”, delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

2. The DEQ agrees that the civil charge assessed in Section D.1 hereof, is in settlement of the violations alleged in Section C.1 and Section C.2 hereof.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Intermet, for good cause shown by Intermet, or pursuant to the Administrative Procedure Act after notice and opportunity to be heard.
2. This Order only addresses those conditions specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Intermet admits the jurisdictional allegations, and will not contest DEQ's jurisdiction. Intermet neither admits nor denies the factual findings, and conclusions of law contained herein.
4. Intermet consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Intermet declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 et seq., and the Air Pollution Control Law with respect to any issue of fact or laws alleged herein and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law with respect thereto. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Intermet to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate, legally authorized enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Intermet shall be responsible for failure to comply with any of the terms and conditions of this Order unless its failure to comply was caused by earthquake, flood, other acts of God, war, strike, or such other occurrence. Intermet shall show that such circumstances

were beyond its reasonable control and not due to a lack of good faith or diligence on its part. Intermet shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in its failure to comply, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Intermet.
11. This Order shall continue in effect until certification of the payment of the civil charge has been made or the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Intermet. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Intermet from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Intermet voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of SEPTEMBER 14, 2007.

Steven A. Dietrich
Steven A. Dietrich, Regional Director,
West Central Regional Office
Department of Environmental Quality

Intermet voluntarily agrees to the issuance of this Order.

By: William E. Nestel
~~James Peterson~~ William E. Nestel
~~Plant Manager~~ Manufacturing Manager
Date: 8/31/7

City
Commonwealth of Virginia
County of Radford

The foregoing document was signed and acknowledged before me this 31st day of August, 2007, by WILLIAM E. NESTEL, who is
~~James Peterson~~ William E. Nestel

~~Plant~~ Manager for Intermet – New River Foundry, on behalf of the Corporation.

Lydie C. French
Notary Public Reg# 342298

My commission expires: My Commission Expires February 29, 2009